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FILED
11 AUG 24 PM 4:04
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: _____

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CHROMADEX, INC., a California
Corporation,

Plaintiff,

vs.

BIOTIVIA BIOCEUTICALS, LLC, a
Delaware Limited Liability Company,

Defendant.

SACV11-01273 CJC(MLG)
Case No.: _____

COMPLAINT FOR

- (1) **Trademark Infringement;**
- (2) **Federal Unfair Competition/False Advertising;**
- (3) **Copyright Infringement;**
- (4) **Unfair Competition per Cal.Bus. & Prof. Code § 17200;**
- (5) **Common Law Unfair Competition; and**
- (6) **Unjust Enrichment**

JURY TRIAL DEMANDED

Plaintiff ChromaDex, Inc. ("Chromadex") brings this action against Defendant Biotivia Bioceuticals, LLC ("Biotivia") and alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the Acts of Congress under the Trademark and Lanham Acts, Title 15 U.S.C. § 1051, et seq., Copyright Act, 17 U.S.C. § 101 et seq., and common law. As such, this Court has subject matter jurisdiction under the

1 provisions of Title 28 U.S.C. §§ 1331 and 1338 because this action involves federal
2 questions of law. A substantial part of the events giving rise to this action have
3 occurred and continue to occur in this judicial district. As such, this court has subject
4 matter jurisdiction under the provisions of Title 28 U.S.C. §§ 1331 and 1338 because
5 this action involves federal questions of law. A substantial part of the events giving
6 rise to this action have occurred and continue to occur in this judicial district. As
7 such, Biotivia should reasonably expect that its activities might have consequences
8 herein.

9 2. This Court has original jurisdiction over the claims brought under federal
10 law pursuant to 28 U.S.C. §§ 1331 and 1338(b) and 15 U.S.C. § 1121.

11 3. This Court has supplemental jurisdiction over the claims in this
12 Complaint that arise under state statutory and common law in the State of California
13 pursuant to 28 U.S.C. §1367(a), because the state law claims are so related to the
14 federal claims that they form part of the same case or controversy and derive from a
15 common nucleus of operative facts.

16 4. This Court has personal jurisdiction over Biotivia because it resides in the
17 Central District of California, has a place of business within this judicial district and
18 conducts substantial business within this judicial district related to the unlawful
19 activity at issue in this Complaint.

20 5. Venue is proper in this court pursuant to 28 U.S.C. §1391 because
21 Biotivia resides in this judicial district, conducts business in this business district, and
22 because a substantial part of the events or omissions giving rise to Chromadex's
23 claims occurred and are continuing to occur in this judicial district.

24 **THE PARTIES**

25 6. Plaintiff ChromaDex Inc. ("Plaintiff" or "ChromaDex") is a California
26 corporation with its principal place of business at 10005 Muirlands, Suite G, Irvine,
27 California 92618.

7. Upon information and belief, Defendant Biotivia Bioceuticals, LLC ("Defendant" or "Biotivia") is a Delaware Limited Liability Company, with a principal place of business at 1 River Place, Ste. 1001, New York, NY 10036 and offices in Los Angeles, California.

BACKGROUND AS TO CHROMADDEX'S BUSINESS AND ITS INTELLECTUAL PROPERTY

8. ChromaDex was established in 1999 and is an innovative natural products company that provides proprietary, science-based solutions and ingredients to the dietary supplement, food and beverage, cosmetic and pharmaceutical industries.

9. On April 26, 2010, ChromaDex launched pTeroPure® Pterostilbene (hereafter PTEROPURE®), a proprietary, ultrapure formulation of the naturally occurring compound pterostilbene, found in blueberries. PTEROPURE® is a synthetic pterostilbene, which is a dietary supplement to support anti-aging, heart health, oxidative stress, and memory.

10. On June 13, 2011, ChromaDex launched BluScience, a line of dietary supplements which feature PTEROPURE®. The BluScience line of pterostilbene-based products is distributed through GNC at more than 7,300 locations throughout the United States and via the internet.

11. ChromaDex is the owner of certain intellectual property rights, including numerous federally registered trademarks and copyrights, as well as common law trademark and copyright rights.

12. ChromaDex is the owner of trademark rights in and to the PTEROPURE®, CHROMADDEX®, THE NEXT GENERATION RESVERATROL, BLUSCIENCE and BLUSCIENCE THE FUSION OF BLUEBERRIES AND SCIENCE marks including the following registrations and applications with the United States Patent and Trademark Office:- U.S. Reg. No. 3932510 for pTeroPure for "Phytochemicals for use in the manufacturing of dietary supplements and nutritional products" in International Class 1 attached as Exhibit A;

1 - U.S. Reg. No 3999086 for CHROMADEx for "Chemical reagents for non-
 2 medical purposes; Chemical test kits for analytical measurement of raw material
 3 identify, potency and formulation consistency for laboratory or research use;
 4 Chemicals for use in industry and science; Chemicals for use in the biochemical and
 5 chemical industry; Assays for research purposes" in International Class 1, and for
 6 "Chemical, biochemical, biological and bacteriological research and analysis;
 7 Consulting in the field of product development in the field of chemicals; Development
 8 and establishment of testing specifications and procedures in the field of chemicals;
 9 Development and test of chemical production methods; Development of voluntary
 10 standards for chemicals; Executing of chemical analyses; Industrial research in the
 11 field of chemicals; Pharmaceutical research and development; Product research and
 12 development; Research and development and consultation related thereto in the field
 13 of chemicals; Testing of raw materials" in International Class 42 attached as Exhibit
 14 B;

15 - U.S. App. Serial No. 85193003 for THE NEXT GENERATION
 16 RESVERATROL for "Phytochemicals for use in the manufacturing of dietary
 17 supplements, nutritional supplements, nutritional beverages, pharmaceuticals and
 18 cosmetics," in International Class 1;

19 - U.S. App. Serial No. 85306142 for BLUSCIENCE for "Dietary and
 20 nutritional supplements," in International Class 5; and

21 - U.S. App. Serial No. 85306158 for BLUSCIENCE THE FUSION OF
 22 BLUEBERRIES AND SCIENCE (stylized) for "Dietary and nutritional
 23 supplements," in International Class 5.

24 13. Since at least March 11, 2010, ChromaDex has used the PTEROPURE®
 25 trademark in commerce.

26 14. ChromaDex has expended significant time, energy, and resources in the
 27 protection and promotion of its PTEROPURE® mark.
 28

1 15. Since at least October 1999, ChromaDex has used the CHROMADEx®
2 trademark in commerce with regard to International class 001, and at least June 2000,
3 in International class 042.

4 16. ChromaDex has expended significant time, energy, and resources in the
5 protection and promotion of its CHROMADEx® mark.

6 17. ChromaDex filed for trademark registration under section 1B on
7 December 8, 2010 for the mark THE NEXT GENERATION RESVERATROL. The
8 mark is currently in use on ChromaDex's website and is to be published for
9 opposition on August 23, 2011.

10 18. ChromaDex filed for trademark registration under section 1B for the mark
11 BLUSCIENCE on April 27, 2011.

12 19. ChromaDex filed for trademark registration under section 1B for the mark
13 BLUSCIENCE THE FUSION OF BLUEBERRIES AND SCIENCE on April 27,
14 2011.

15 20. ChromaDex uses the BLUSCIENCE and BLUSCIENCE THE FUSION
16 OF BLUEBERRIES AND SCIENCE marks on its website, chromadex.com, in
17 connection with the advertising and sale of its BluScience line of products, all of
18 which utilize the PTEROPURE®.

19 21. ChromaDex is the owner of certain copyrighted works including as
20 relevant here:

21 - U.S. Copyright Reg. No. TXu001746330 for a work entitled "pTeroPure
22 Brochure;" attached as Exhibit C; and

23 - U.S. Copyright Reg. No. TXu001745172 for a work entitled "pTteroPure
24 Pterostilbene: The Next Generation Resveratrol (Complete Presentation)," attached as
25 Exhibit D.

26 BIOTIVIA'S UNLAWFUL CONDUCT

27 22. Biotivia owns and operates at least two websites which target the United
28 States market, Biotivialabs.com and Biotivia.com ("Biotivia Websites").

23. Biotivia sells various nutraceutical supplements on the Biotivia Websites and through other third-party stores such as drugstores and other vendors of dietary supplements. Biotivia's products are available for purchase both from internet websites and at local third-party stores.

24. The Biotivia Websites are active websites through which Biotivia solicits business throughout the United States, and sells products to consumers throughout the United States, including consumers in the Central District of California.

25. In or about December 2010, via the Biotivia Websites, Biotivia began advertising and selling a product called PteroMax that contains pterostilbene.

26. Biotivia's PteroMax product directly competes with ChromaDex's BluScience line of products.

27. No association or relationship exists between ChromaDex and Biotivia.

28. The PteroMax product sold by Biotivia is not manufactured or affiliated in any way with ChromaDex, PTEROPURE® or ChromaDex's BluScience line of products.

Biotivia's False Advertising and Unfair Competition on its Websites

29. The Biotivia Websites contain numerous false and misleading statements regarding its PteroMax product which are intended to deceive the purchasing public and/or cause confusion with the purchasing public. Examples of the myriad false and misleading statements reflected on Biotivia's Websites include:

a) Biotivia falsely states that there is a partnership between ChromaDex and Biotivia;

b) Biotivia falsely claims that its PteroMax product was developed prior to the PTEROPURE® product;

c) Biotivia falsely claims that Biotivia introduced the world to pterostilbene when there were at least 15 pterostilbene-based products on the market before the PteroMax product;

1 d) Biotivia falsely claims that the PTEROPURE® product was
2 created “based on the Biotivia Labs’ formulation for PteroMax”;

3 e) Biotivia falsely claims that the PTEROPURE® formulation is a
4 “weakened version” of the competing PteroMax product;

5 f) Biotivia falsely claims that the price of PteroMax is substantially
6 less than PTEROPURE®;

7 g) Biotivia falsely states that its PteroMax product has hundreds of
8 times the amount of pterostilbene contained in other pterostilbene-based products,
9 including PTEROPURE®;

10 h) Biotivia falsely states that PteroMax is 100% pure pterostilbene;

11 i) Biotivia falsely claims that PteroMax contains over 100 times the
12 potency of competing supplements;

13 j) Biotivia falsely states that PteroMax is cheaper than other similar
14 products;

15 k) Biotivia falsely states that only PteroMax contains Polydatin;

16 l) Biotivia falsely states that more of the world’s leading medical
17 research institutions chose Biotivia for human clinical trials than all other suppliers
18 combined;

19 m) Biotivia falsely claims that PteroMax is the result of over four year
20 of Biotivia research, testing and analysis;

21 n) Biotivia falsely claims that PteroMax has the highest antioxidant
22 rating of any supplement ever tested, and more that double that of any competing
23 pterostilbene product ever tested;

24 o) Biotivia falsely claims that PteroMax is the only pterostilbene
25 supplement designed by health scientists to match the specific proportions and
26 concentrations found to be most effective in published scientific studies;

27 p) Biotivia falsely claims that PteroMax contains the highest amount
28 of pterostilbene in its product;

1 q) Biotivia falsely claims that dosages of less than 100 mg per
2 capsule have not been shown effective in humans;

3 r) Biotivia falsely claims that no company or institution has more
4 experience and expertise in the development and manufacturing of resveratrol than
5 Biotivia; and

6 s) Biotivia falsely states that its product, PteroActiv, is a “pure”
7 pterostilbene and has something to do with SIRT1 activation.

8 30. Biotivia also used PteroMax in connection with words and phrases
9 similar to ChromaDex’s THE NEXT GENERATION RESVERATROL mark on the
10 Biotivia Websites.

11 31. Biotivia uses its PteroMax name in connection with the phrase
12 “Pterostilbene has been described as the taking Resveratrol to the next level” on its
13 Biotivialabs.com website. Biotivia also uses the phrase “PteroMax, in many
14 important ways, takes resveratrol to a new level,” on its Biotivia.com website.

15 32. The combined use of the PteroMax name and the phrases incorporating
16 “taking resveratrol to the next level,” and “takes resveratrol to a new level” are likely
17 to confuse consumers based on the similarity of the name and phrases to the
18 PTEROPURE® and THE NEXT GENERATION RESVERATROL marks.

19 33. Biotivia is unfairly competing with ChromaDex through the unauthorized
20 and unlawful use of ChromaDex’s marks.

21 34. Biotivia’s conduct is willful in nature.

22 **Biotivia’s Conduct In Unlawfully Directing**

23 **Internet Users to Its Websites by Using ChromaDex’s Trademarks**

24 35. Biotivia, without authorization, used ChromaDex’s CHROMADEx®,
25 PTEROPURE® and BLUSCIENCE marks as ad keywords on various search engines
26 so as to unlawfully deceive consumers into believing that there was an affiliation
27 between ChromaDex and Biotivia.
28

1 36. Biotivia purchased keywords utilizing ChromaDex's marks to drive web
2 traffic to its competing website to sell its products on at least Google.com, Ask.com,
3 and Answer.com.

4 37. Biotivia purchased several of ChromaDex's trademarks, including, *inter*
5 *alia*, ChromaDex's CHROMADEx®, PTEROPURE® and BLUSCIENCE marks, as
6 keywords on internet search engines Google.com and Ask.com, among other internet
7 search engines.

8 38. By purchasing ChromaDex's identical trademarked terms as keywords,
9 Biotivia is seeking to drive consumer traffic to its own websites through the
10 unauthorized and infringing use of ChromaDex's marks. As a result, consumers are
11 likely to be confused as to whether its PteroMax is affiliated with ChromaDex and its
12 products, including PTEROPURE®.

13 39. Biotivia's purchase of ChromaDex's CHROMADEx®, PTEROPURE®
14 and BLUSCIENCE marks as key ad words for the sale of products in the same fields
15 is likely to cause confusion to consumers and constitutes trademark infringement.

16 40. In addition to the purchase of ChromaDex's marks as key ad words,
17 Biotivia used ChromaDex's CHROMADEx®, PTEROPURE® and BLUSCIENCE
18 marks in its metadata with the intent to use the ChromaDex marks to drive
19 ChromaDex customers to Biotivia's websites through general internet searches.

20 41. Biotivia's use of ChromaDex's marks in Biotivia's metadata is likely to
21 confuse consumers as to the source and affiliation of ChromaDex's products.

22 42. Biotivia unlawfully used the CHROMADEx®, PTEROPURE® and
23 BLUSCIENCE marks in commerce in connection with the sale or advertising for the
24 sale of Biotivia's competing products. Such use in commerce in connection with the
25 sale or advertising for Biotivia's products was and is unauthorized.

26 43. Biotivia is unfairly competing with ChromaDex through the unauthorized
27 and unlawful use of ChromaDex's marks.

28 44. Biotivia's conduct is willful in nature.

Biotivia's Copyright Infringement of ChromaDex's Promotional Materials

45. In September 2010, ChromaDex emailed PTEROPURE® and pterostilbene materials, including a brochure, to Biotivia. An updated and revised version of the PTEROPURE® brochure is accessible on the ChromaDex pTeroPure.com website.

46. The brochure sent to Biotivia in September 2010 and the updated version on the ChromaDex website are protected by copyright.

47. As the owner of the United States Copyright Registration Nos. TXu001746339 and TXu001746330, ChromaDex has the exclusive right to reproduce, distribute, display, and prepare derivative works based on the copyrighted work. 17 U.S.C. §§ 106 and 113.

48. The Biotivia Websites contain statements regarding PteroMax, including how it was developed, how it is made, benefits of taking the supplement, and comparing the product to other similar products.

49. Many of the statements found on Biotivia's website were copied in whole or in part from ChromaDex's copyrighted works. For example, the ChromaDex copyrighted brochures contain the following statements:

pTeroPure is a nature identical form of trans-pterostilbene.
Pterostilbene is the next generation of resveratrol:

- **a methylated resveratrol analog naturally found in berries**
- **superior biological activity**
- **better oral bioavailability**
- **metabolizes more slowly in the body, allowing more time for its antioxidant activities to act.**

The Biotivia website contains the following statements, among others, which reflect copying of the statements in the copyrighted ChromaDex materials:

Found in plants like blueberries, pterostilbenes have been a feature of Ayurvedic medicine for hundreds of years. The highlights of pterostilbenes are:

- a methylated resveratrol analog naturally found in berries
- superior biological activity
- better oral bioavailability
- metabolizes more slowly in the body.

50. Biotivia has used ChromaDex's copyrighted materials, including the examples above, without ChromaDex's authorization or consent. Biotivia used the materials to promote its competing pterostilbene and resveratrol products.

51. The continued use of ChromaDex's copyrighted materials on Biotivia's website has caused and is causing ChromaDex to suffer serious and substantial damages resulting from the Biotivia's acts of copyright infringement, and the damages are causing irreparable injury to ChromaDex for which there is no adequate remedy at law.

ChromaDex's Attempts to Have Biotivia Cease Its Infringing Activity

52. In or about April 28, 2011, ChromaDex sent a letter to Biotivia demanding that it cease its use of ChromaDex's intellectual property. To date, Biotivia has failed to comply with ChromaDex's demands.

53. Biotivia has not received authorization, a license, or any other authority to utilize any of ChromaDex's trademarks or other intellectual property for any purpose, nor has ChromaDex acquiesced to Biotivia's use of any of its intellectual property.

54. Biotivia's infringing activities are likely to cause confusion or mistake among prospective consumers and are likely to mislead and/or deceive prospective consumers with respect to the origin and quality of ChromaDex's products.

FIRST CLAIM FOR RELIEF

Trademark Infringement under the Lanham Act -15 U.S.C. §1114

55. ChromaDex realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 54, above.

56. Biotivia owns and operates at two websites which target the United States market, Biotivialabs.com and Biotivia.com.

1 57. Biotivia sells various nutraceutical supplements on the Biotivia's
2 Websites and through other third-party stores such as drugstores and other vendors of
3 dietary supplements. Biotivia's products are available for purchase both from internet
4 websites and at local third-party stores.

5 58. The Biotivia Websites are active websites that solicit business throughout
6 the United States, and sell products to consumers throughout the United States,
7 including consumers in the Central District of California.

8 59. On or about December 2010, via the Biotivia Websites, Biotivia began
9 advertising and selling a product called PteroMax that contains pterostilbene.

10 60. Biotivia's PteroMax product directly competes with ChromaDex's
11 BluScience line of products.

12 61. No association or relationship exists between ChromaDex and Biotivia.

13 62. The PteroMax product sold by Biotivia is not manufactured or affiliated
14 in any way with ChromaDex, PTEROPURE® or ChromaDex's BluScience line of
15 products.

16 63. Biotivia, without authorization, used ChromaDex's CHROMADEx®,
17 PTEROPURE® and BLUSCIENCE marks as ad keywords on various search engines
18 so as to unlawfully deceive consumers into believing that there was and is an
19 affiliation between ChromaDex and Biotivia.

20 64. Biotivia purchased keywords utilizing ChromaDex's marks to drive web
21 traffic to its competing website to sell its products on at least Google.com, Ask.com,
22 and Answer.com.

23 65. Biotivia purchased several of ChromaDex's trademarks, including, *inter*
24 *alia*, ChromaDex's CHROMADEx®, PTEROPURE® and BLUSCIENCE marks, as
25 keywords on internet search engines Google.com and Ask.com, among other internet
26 search engines.

27 66. By purchasing ChromaDex's identical trademarked terms as keywords,
28 Biotivia is seeking to drive consumer traffic to its own website through the

1 unauthorized and infringing use of ChromaDex's marks. As a result, consumers are
2 likely to be confused as to whether PteroMax is affiliated with ChromaDex and with
3 its ChromaDex's PTEROPURE®.

4 67. Biotivia's purchase of ChromaDex's CHROMADEX®, PTEROPURE®
5 and BLUSCIENCE marks as key ad words for the sale of products in the same fields
6 is likely to cause confusion to consumers and constitutes trademark infringement.

7 68. In addition to the purchase of ChromaDex's marks as key ad words,
8 Biotivia used ChromaDex's CHROMADEX®, PTEROPURE® and BLUSCIENCE
9 marks in its metadata with the intent to use the ChromaDex marks to drive
10 ChromaDex customers to Biotivia's website through general internet searches.

11 69. Biotivia's use of ChromaDex's marks in Biotivia's metadata is likely to
12 confuse consumers as to the source and affiliation of ChromaDex's products.

13 70. Biotivia unlawfully used the CHROMADEX®, PTEROPURE® and
14 BLUSCIENCE marks in commerce in connection with the sale or advertising for the
15 sale of Biotivia's competing products. Such use in commerce in connection with the
16 sale or advertising for Biotivia's products was and is unauthorized.

17 71. The federal registrations of ChromaDex's CHROMADEX® and
18 PTEROPURE® mark evidences ChromaDex's exclusive right to use its
19 CHROMADEX® and PTEROPURE® marks in connection with Phytochemicals for
20 use in the manufacturing of dietary supplements and nutritional products. 15 U.S.C. §
21 1115.

22 72. Biotivia purchased ad words through Google and other internet search
23 engines for ChromaDex's CHROMADEX® and PTEROPURE® marks.

24 73. Biotivia used ChromaDex's CHROMADEX® and PTEROPURE®
25 marks in its metadata with the intent to use the ChromaDex marks to drive
26 ChromaDex customers to Biotivia's website through general internet searches.
27
28

1 74. Biotivia's wrongful and unauthorized use of the CHROMADEx® and
2 PTEROPURE® marks as delineated above constitutes trademark infringement
3 pursuant to 15 U.S.C. § 1114.

4 75. Biotivia's unauthorized use of the CHROMADEx® and PTEROPURE®
5 marks in connection with the sale of the competing PteroMax product is likely to
6 cause confusion, or mistake, or to deceive as to the source, affiliation, or sponsorship
7 with ChromaDex, in violation of 15 U.S.C. § 1051 et seq.

8 76. Biotivia's use and adoption of ChromaDex's exact marks, which are
9 utilized in the same field as ChromaDex's marks, constitutes infringement of
10 ChromaDex's registered CHROMADEx® and PTEROPURE® marks, in violation of
11 15 U.S.C. §§ 1051 et seq., to the substantial and irreparable injury of the public and of
12 ChromaDex's marks, business, reputation, and goodwill.

13 77. Biotivia's conduct has caused and will continue to cause damage to
14 ChromaDex in an amount to be proved at trial, and if not enjoined, will cause
15 irreparable harm to ChromaDex for which there is no adequate remedy at law.

16 78. ChromaDex is further entitled to recover damages and to recover its other
17 costs herein. Biotivia will be irreparably harmed if the unlawful, fraudulent and unfair
18 conduct is not stopped and damages are an insufficient remedy. Accordingly,
19 ChromaDex is also entitled to injunctive relief against Biotivia.

20 79. ChromaDex is further entitled to recover statutory damages, treble
21 damages and attorneys' fees.

22 **SECOND CLAIM FOR RELIEF**

23 **Unfair Competition/False Advertising Under the Lanham Act**

24 **15 U.S.C. §1125(a)**

25 80. ChromaDex realleges and incorporates by this reference each and every
26 allegation set forth in paragraphs 1 through 79, above.
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1 81. Biotivia owns and operates at least two websites which target the United
2 States market, Biotivialabs.com and Biotivia.com.

3 82. Biotivia sells various nutraceutical supplements on the Biotivia Websites
4 and through other third-party stores such as drugstores and other vendors of dietary
5 supplements. Biotivia's products are available for purchase both from internet
6 websites and at local third-party stores.

7 83. The Biotivia Websites are active websites that are used by Biotivia to
8 solicit business throughout the United States and sell products to consumers
9 throughout the United States, including consumers in the Central District of
10 California.

11 84. In or about December 2010, via the Biotivia Websites, Biotivia began
12 advertising and selling a product called PteroMax that contains pterostilbene.

13 85. Biotivia's PteroMax product directly competes with ChromaDex's
14 BluScience line of products.

15 86. No association or relationship exists between ChromaDex and Biotivia.

16 87. The PteroMax product sold by Biotivia is not manufactured or affiliated
17 in any way with ChromaDex, PTEROPURE® or ChromaDex's BluScience line of
18 products.

19 88. The Biotivia Websites contain numerous false and misleading statements
20 regarding its PteroMax product and ChromaDex and its products which are intended
21 to deceive the purchasing public and/or cause confusion with the purchasing public.
22 Examples of the myriad false and misleading statements reflected on Biotivia's
23 Websites include:

24 a) Biotivia falsely states that there is a partnership between
25 ChromaDex and Biotivia;

26 b) Biotivia falsely claims that PteroMax product was developed prior
27 to the PTEROPURE® product;
28

1 c) Biotivia falsely claims that Biotivia introduced the world to
2 pterostilbene when there were at least 15 pterostilbene-based products on the market
3 before the PteroMax product;

4 d) Biotivia falsely claims that the PTEROPURE® product was
5 created “based on the Biotivia Labs’ formulation for PteroMax”;

6 e) Biotivia falsely claims that the PTEROPURE® formulation is a
7 “weakened version” of the competing PteroMax;

8 f) Biotivia falsely claims that the price of PteroMax is substantially
9 less than PTEROPURE®;

10 g) Biotivia falsely states that its PteroMax product has hundreds of
11 times the amount of pterostilbene than what is contained in other pterostilbene
12 supplements, including PTEROPURE®;

13 h) Biotivia falsely states that PteroMax is 100% pure pterostilbene;

14 i) Biotivia falsely claims that PteroMax contains over 100 times the
15 potency of competing supplements;

16 j) Biotivia falsely states that PteroMax is cheaper than other similar
17 products;

18 k) Biotivia falsely states that only PteroMax contains Polydatin;

19 l) Biotivia falsely states that more of the world’s leading medical
20 research institutions chose Biotivia for human clinical trials than all other suppliers
21 combined;

22 m) Biotivia falsely claims that PteroMax is the result of over four year
23 of Biotivia researching, testing and analysis;

24 n) Biotivia falsely claims that PteroMax has the highest antioxidant
25 rating of any supplement ever tested, and more that double that of any competing
26 pterostilbene product ever tested;

1 o) Biotivia falsely claims that PteroMax is the only pterostilbene
2 supplement designed by health scientists to match the specific proportions and
3 concentrations found to be most effective in published scientific studies;

4 p) Biotivia falsely claims that PteroMax contains the highest amount
5 of pterostilbene in its product;

6 q) Biotivia falsely claims that dosages of less than 100 mg per
7 capsule have not been shown effective in humans;

8 r) Biotivia falsely claims that no company or institution has more
9 experience and expertise in the development and manufacturing of resveratrol than
10 Biotivia; and

11 s) Biotivia falsely states that its product, PteroActiv, is a "pure"
12 pterostilbene and has something to do with SIRT1 activation.

13 89. Biotivia also used PteroMax in connection with words and phrases
14 similar to ChromaDex's THE NEXT GENERATION RESVERATROL mark on
15 Biotivia's Websites.

16 90. Biotivia uses its PteroMax name, in connection with the phrase,
17 "Pterostilbene has been described as the taking Resveratrol to the next level," on its
18 Biotivialabs.com website. Biotivia also uses the phrase "PteroMax, in many
19 important ways, takes resveratrol to a new level," on its Biotivia.com website.

20 91. The combined use of the PteroMax name and the phrases incorporating
21 "taking resveratrol to the next level," and "takes resveratrol to a new level" are likely
22 to confuse consumers based on the similarity to the PTEROPURE® and THE NEXT
23 GENERATION RESVERATROL marks.

24 92. Biotivia is unfairly competing with ChromaDex through the unauthorized
25 and unlawful use of ChromaDex's marks and through the use of false and misleading
26 statements and copyright infringement alleged herein.

27 93. Biotivia's conduct is willful in nature.
28

1 94. Biotivia, without authorization, used ChromaDex's CHROMADEx®,
2 PTEROPURE® and BLUSCIENCE marks as ad keywords on various search engines
3 so as to unlawfully deceive consumers into believing that there was an affiliation
4 between ChromaDex and Biotivia.

5 95. Biotivia purchased keywords utilizing ChromaDex's marks to drive web
6 traffic to its competing website to sell its products on at least Google.com, Ask.com,
7 and Answer.com.

8 96. Biotivia purchased several of ChromaDex's trademarks, including, *inter*
9 *alia*, ChromaDex's CHROMADEx®, PTEROPURE® and BLUSCIENCE marks, as
10 keywords on internet search engines Google.com and Ask.com, among other internet
11 search engines.

12 97. By purchasing ChromaDex's identical trademarked terms as keywords,
13 Biotivia is seeking to drive consumer traffic to its own websites through the
14 unauthorized and infringing use of ChromaDex's marks. As a result, consumers are
15 likely to be confused as to whether PteroMax is affiliated with ChromaDex's
16 PTEROPURE® and with ChromaDex in general.

17 98. Biotivia's purchase of ChromaDex's, CHROMADEx®, PTEROPURE®
18 and BLUSCIENCE marks as key ad words for the sale of products in the same fields
19 as well as the false and misleading statements on the Biotivia Websites are likely to
20 cause confusion to consumers and constitutes trademark infringement.

21 99. In addition to the purchase of ChromaDex's marks as key ad words,
22 Biotivia used ChromaDex's CHROMADEx®, PTEROPURE® and BLUSCIENCE
23 marks in its metadata with the intent to use the ChromaDex marks to drive
24 ChromaDex customers to Biotivia's website through general internet searches.

25 100. Biotivia's use of ChromaDex's marks in Biotivia's metadata and the false
26 and misleading statements on the Biotivia Websites are likely to confuse consumers as
27 to the source and affiliation of ChromaDex's products.
28

1 101. Biotivia unlawfully used the CHROMADEx®, PTEROPURE® and
2 BLUSCIENCE marks in commerce in connection with the sale or advertising for the
3 sale of Biotivia's competing products. Such use in commerce in connection with the
4 sale or advertising for Biotivia's products was unauthorized.

5 102. Biotivia is unfairly competing with ChromaDex through the unauthorized
6 and unlawful use of ChromaDex's marks and through the false and misleading
7 statements set forth on the Biotivia Websites.

8 103. Biotivia's conduct is willful in nature.

9 104. Biotivia's conduct is likely to cause confusion, or to cause mistake, or to
10 deceive customers as to the nature of the goods, causing great harm to ChromaDex.

11 105. Biotivia is unfairly benefiting from the false or intentionally misleading
12 statements on its website and marketing materials to the detriment of ChromaDex.

13 106. ChromaDex has been damaged by these acts in an amount to be proven at
14 trial.

15 107. ChromaDex will be irreparably harmed if the improper conduct is not
16 stopped and damages are an insufficient remedy. ChromaDex is also entitled to
17 injunctive and equitable relief against Biotivia.

18 **THIRD CLAIM FOR RELIEF**

19 **Copyright Infringement -**

20 108. ChromaDex realleges and incorporates by this reference each and every
21 allegation set forth in paragraphs 1 through 107, above.

22 109. Biotivia without authorization copied portions, in whole or in part, of
23 ChromaDex's copyright protected materials.

24 110. ChromaDex has registered the works in Exhibits C and D with the United
25 States Copyright Office as reflected in the attached registrations.

26 111. ChromaDex has complied in all respects with 17 U.S.C. §§ 101 et seq.,
27 and secured the exclusive rights and privileges in and to the copyrights of the above
28

1 reference works. ChromaDex is the rightful and sole owner of all rights, title, and
2 interest in and to the copyrights and their respective works.

3 112. Biotivia's conduct violates ChromaDex's exclusive rights as owners of
4 the copyrights under 17 U.S.C. § 106.

5 113. Biotivia's unauthorized use of ChromaDex's copyright-protected works
6 on Biotivia's websites constitutes copyright infringement under 17 U.S.C. § 101 et.
7 seq.

8 114. As a direct and proximate result of Biotivia's wrongful conduct, Biotivia
9 has realized and continue to realize profits and other benefits rightly belonging to
10 ChromaDex.

11 115. ChromaDex seeks an award of damages pursuant to 17 U.S.C. §§ 504 and
12 505, including actual damages, or, in the alternative, statutory damages.

13 116. ChromaDex will be irreparably harmed if the infringing conduct is not
14 stopped and damages are an insufficient remedy and as such is entitled to injunctive
15 relief.

16 117. Upon information and belief, Biotivia has engaged in willful infringement
17 of the rights owned exclusively by ChromaDex, and ChromaDex is therefore, entitled
18 to the maximum statutory damages available.

19 **FOURTH CLAIM FOR RELIEF**

20 **Unfair Competition- CAL. BUS. & PROF. CODE §17200 et. seq.**

21 118. ChromaDex realleges and incorporates by this reference each and every
22 allegation set forth in paragraphs 1 through 117, above.

23 119. Biotivia owns and operates at two websites which target the United States
24 market, Biotivialabs.com and Biotivia.com.

25 120. Biotivia sells various nutraceutical supplements on the Biotivia's
26 Websites and through other third-party stores such as drugstores and other vendors of
27 dietary supplements. Biotivia's products are available for purchase both from internet
28 websites and at local third-party stores.

1 121. The Biotivia Websites are active websites that solicit business throughout
2 the United States, and sell products to consumers throughout the United States,
3 including consumers in the Central District of California.

4 122. In or about December 2010, via the Biotivia Websites, Biotivia began
5 advertising and selling a product called PteroMax that contains pterostilbene.

6 123. Biotivia's PteroMax product directly competes with ChromaDex's
7 BluScience line of products.

8 124. No association or relationship exists between ChromaDex and Biotivia.

9 125. The PteroMax product sold by Biotivia is not manufactured by
10 ChromaDex or affiliated in any way with ChromaDex, PTEROPURE® or
11 ChromaDex's BluScience line of products.

12 126. The Biotivia Websites contain numerous false and misleading statements
13 regarding its PteroMax product which are intended to deceive the purchasing public
14 and/or cause confusion with the purchasing public. Examples of the myriad false and
15 misleading statements reflected on Biotivia's Websites include:

16 a) Biotivia falsely states that there is a partnership between
17 ChromaDex and Biotivia;

18 b) Biotivia falsely claims that PteroMax product was developed prior
19 to the PTEROPURE® product;

20 c) Biotivia falsely claims that Biotivia introduced the world to
21 pterostilbene when there were at least 15 pterostilbene-based products on the market
22 before the PteroMax product;

23 d) Biotivia falsely claims that the PTEROPURE® product was
24 created "based on the Biotivia Labs' formulation for PteroMax";

25 e) Biotivia falsely claims that the PTEROPURE® formulation is a
26 "weakened version" of the competing PteroMax;

27 f) Biotivia falsely claims that the price of PteroMax is substantially
28 less than PTEROPURE®;

1 g) Biotivia falsely states that its PteroMax product has hundreds of
2 times the amount of pterostilbene than what is contained in other pterostilbene
3 supplements, including PTEROPURE®;

4 h) Biotivia falsely states that PteroMax is 100% pure pterostilbene;

5 i) Biotivia falsely claims that PteroMax contains over 100 times the
6 potency of competing supplements;

7 j) Biotivia falsely states that PteroMax is cheaper than other similar
8 products;

9 k) Biotivia falsely states that only PteroMax contains Polydatin;

10 l) Biotivia falsely states that more of the world's leading medical
11 research institutions chose Biotivia for human clinical trials than all other suppliers
12 combined;

13 m) Biotivia falsely claims that PteroMax is the result of over four year
14 of Biotivia researching, testing and analysis;

15 n) Biotivia falsely claims that PteroMax has the highest antioxidant
16 rating of any supplement ever tested, and more that double that of any competing
17 pterostilbene product ever tested;

18 o) Biotivia falsely claims that PteroMax is the only pterostilbene
19 supplement designed by health scientists to match the specific proportions and
20 concentrations found to be most effective in published scientific studies;

21 p) Biotivia falsely claims that PteroMax contains the highest amount
22 of pterostilbene in its product;

23 q) Biotivia falsely claims that dosages of less than 100 mg per
24 capsule have not been shown effective in humans;

25 r) Biotivia falsely claims that no company or institution has more
26 experience and expertise in the development and manufacturing of resveratrol than
27 Biotivia; and
28

1 s) Biotivia falsely states that its product, PteroActiv, is a “pure”
2 pterostilbene and has something to do with SIRT1 activation.

3 127. Biotivia also used PteroMax in connection with words and phrases
4 similar to ChromaDex’s THE NEXT GENERATION RESVERATROL mark on
5 Biotivia’s Websites.

6 128. Biotivia uses its PteroMax name in connection with the phrase,
7 “Pterostilbene has been described as the taking Resveratrol to the next level,” on its
8 Biotivialabs.com website. Biotivia also uses the phrase “PteroMax, in many
9 important ways, takes resveratrol to a new level,” on its Biotivia.com website.

10 129. The combined use of the PteroMax name and the phrases incorporating
11 “taking resveratrol to the next level,” and ”takes resveratrol to a new level” are likely
12 to confuse consumers based on the similarity to the PTEROPURE® and THE NEXT
13 GENERATION RESVERATROL marks.

14 130. Biotivia is unfairly competing with ChromaDex through the unauthorized
15 and unlawful use of ChromaDex’s marks.

16 131. Biotivia’s conduct is willful in nature.

17 132. Biotivia, without authorization, used ChromaDex’s CHROMADEx®,
18 PTEROPURE® and BLUSCIENCE marks as ad keywords on various search engines
19 so as to unlawfully deceive consumers into believing that there was an affiliation
20 between ChromaDex and Biotivia.

21 133. Biotivia purchased keywords utilizing ChromaDex’s marks to drive web
22 traffic to its competing website to sell its products on at least Google.com, Ask.com,
23 and Answer.com.

24 134. Biotivia purchased several of ChromaDex’s trademarks, including, inter
25 alia, ChromaDex’s CHROMADEx®, PTEROPURE® and BLUSCIENCE marks, as
26 keywords on internet search engines Google.com and Ask.com, among other internet
27 search engines.

1 135. By purchasing ChromaDex's identical trademarked terms as keywords,
2 Biotivia is seeking to drive consumer traffic to its own website through the
3 unauthorized and infringing use of ChromaDex's marks. As a result, consumers are
4 likely to be confused as to whether PteroMax is affiliated with ChromaDex's
5 PTEROPURE®.

6 136. Biotivia's purchase of ChromaDex' CHROMADDEX®, PTEROPURE®
7 and BLUSCIENCE marks as key ad words for the sale of products in the same fields
8 is likely to cause confusion to consumers and constitutes trademark infringement.

9 137. In addition to the purchase of ChromaDex's marks as key ad words,
10 Biotivia used ChromaDex's CHROMADDEX®, PTEROPURE® and BLUSCIENCE
11 marks in its metadata with the intent to use the ChromaDex marks to drive
12 ChromaDex customers to Biotivia's website through general internet searches.

13 138. Biotivia's use of ChromaDex's marks in Biotivia's metadata is likely to
14 confuse consumers as to the source and affiliation of ChromaDex's products.

15 139. Biotivia unlawfully used the CHROMADDEX®, PTEROPURE® and
16 BLUSCIENCE marks in commerce in connection with the sale or advertising for the
17 sale of Biotivia's competing products. Such use in commerce in connection with the
18 sale or advertising for Biotivia's products was unauthorized.

19 140. Biotivia is unfairly competing with ChromaDex through the unauthorized
20 and unlawful use of ChromaDex's marks.

21 141. Biotivia's conduct is willful in nature.

22 142. The acts and conduct of Biotivia as alleged above constitute unfair
23 competition as defined by California Business and Professions Code §17200 et. seq.
24 as the conduct is unlawful, unfair and fraudulent.

25 143. The acts and conduct of Biotivia are likely to cause confusion and
26 mistake among customers and the public as to the origin or association of Biotivia's
27 infringing products.
28

1 144. Biotivia's unlawful, unfair, and deceptive trade practices, and other
2 conduct described above, constitutes unfair competition in violation of California
3 Business and Professions Code §17200 et. seq.

4 145. ChromaDex will be irreparably harmed if the unlawful, fraudulent and
5 unfair conduct is not stopped and damages are an insufficient remedy. As a result,
6 ChromaDex is entitled to injunctive and equitable relief against Biotivia.

7 **FIFTH CLAIM FOR RELIEF**

8 **Common Law Unfair Competition**

9 146. ChromaDex realleges and incorporates by this reference each and every
10 allegation set forth in paragraphs 1 through 145 above.

11 147. The acts and conduct of Biotivia as alleged above in this Complaint
12 constitute unfair competition pursuant to the common law.

13 148. ChromaDex's marks are distinctive and were distinctive at the time of all
14 acts alleged herein. As a result of ChromaDex's substantial investment, the
15 ChromaDex marks have developed extensive goodwill in the market. Accordingly,
16 the ChromaDex marks are extremely valuable to ChromaDex.

17 149. Biotivia is not affiliated with or sponsored by ChromaDex and has not
18 been authorized by ChromaDex to use any mark that is identical to the ChromaDex
19 marks.

20 150. Biotivia's activities complained of herein constitute willful and
21 intentional tort, in derogation of ChromaDex's rights. Acts of unfair competition
22 commenced and have continued in spite of the Biotivia's knowledge that the use of
23 the ChromaDex marks were and are in contravention of ChromaDex's rights.

24 151. ChromaDex's damages from the aforesaid unlawful actions of Biotivia, to
25 the extent ascertainable, have not yet been determined.

26 152. ChromaDex seeks attorney's fees and costs given the willful conduct of
27 the Biotivia.
28

1 153. Biotivia's actions were committed intentionally, maliciously, willfully
2 and, wantonly. ChromaDex is entitled to an award of punitive damages.

3 **SIXTH CLAIM FOR RELIEF**

4 **Unjust Enrichment**

5 154. ChromaDex realleges and incorporates by this reference each and every
6 allegation set forth in paragraphs 1 through 153 above.

7 155. The acts of Biotivia complained of herein constitute unjust enrichment at
8 ChromaDex's expense in violation of the common law of California.

9 156. ChromaDex has suffered and is continuing to suffer irreparable injury for
10 which there is no adequate remedy at law.

11 157. ChromaDex has been damaged in an amount to be proven at trial.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, ChromaDex respectfully requests that the Court enter judgment
14 against Biotivia as follows:

15 1. That the Court issue temporary and permanent injunctive relief against
16 Biotivia and that Biotivia, its officers, agents, representatives, servants; employees,
17 attorneys, successors and assignees, and all others in active concert or participation
18 with Biotivia, be enjoined and restrained from:

19 a) using ChromaDex's trade names, trademarks, or copyrights in
20 connection with the description, marketing, promotion, advertising, or sale of any of
21 Biotivia's products;

22 b) infringing ChromaDex's trademarks and service marks

23 c) infringing ChromaDex's copyrights;

24 d) engaging in any acts or activities directly or indirectly calculated to
25 infringe ChromaDex's CHROMADEx®, PTEROPURE®, BLUSCIENCE, and THE
26 NEXT GENERATION RESVERATROL marks.

27 e) otherwise competing unfairly with ChromaDex in any manner
28 whatsoever;

1 2. That the Court award ChromaDex actual damages, liquidated damages,
2 statutory damages and punitive damages, in amount to be proven at trial;

3 3. That the Court Order Biotivia to account for an pay over to ChromaDex
4 all profits received by Biotivia from the unlawful acts, and for the unjust enrichment;

5 4. That the Court enter an order placing reasonable but effective restrictions
6 on the future transactions and activities of Biotivia so as to prevent fraud on the Court
7 and so as to ensure the capacity of Biotivias to pay, and the prompt payment of, any
8 judgment entered against Biotivia in this action;

9 5. That the Court award ChromaDex its compensatory, incidental, and
10 consequential damages;

11 6. That the Court award ChromaDex treble damages in an amount to be
12 proven at trial;

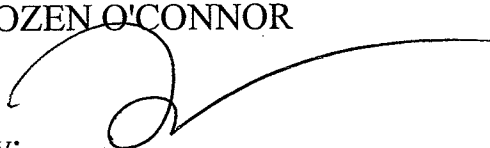
13 7. That the Court award ChromaDex its attorneys' fees and costs incurred
14 herein, including prejudgment and post judgment interest; and

15 8. That the Court grant ChromaDex all other relief to which it' is entitled
16 and such other or additional relief as is just and proper under these circumstances.
17

18 DATED: August 24, 2011

COZEN O'CONNOR

19
20 By:



ERIK L. JACKSON
KYLE VOS STRACHE
Attorneys for Plaintiff,
CHROMADEx INC.

DEMAND FOR JURY TRIAL

ChromaDex demands a trial by jury on all triable issues of fact.

DATED: August 24, 2011

COZEN O'CONNOR

By: 

ERIK L. JACKSON
KYLE VOS STRACHE
Attorneys for Plaintiff,
CHROMADDEX INC.

EXHIBIT A

United States of America

United States Patent and Trademark Office

pTeroPure

Reg. No. 3,932,510

Registered Mar. 15, 2011

Int. Cl.: 1

TRADEMARK

PRINCIPAL REGISTER

CHROMADEX INC. (CALIFORNIA CORPORATION)
10005 MUIRLANDS SUITE G
IRVINE, CA 92618

FOR: PHYTOCHEMICALS FOR USE IN THE MANUFACTURING OF DIETARY SUPPLEMENTS AND NUTRITIONAL PRODUCTS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 3-11-2010; IN COMMERCE 3-11-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-939,875, FILED 2-19-2010.

MARY BOAGNI, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT B

United States of America

United States Patent and Trademark Office

CHROMADEX

Reg. No. 3,999,086

Registered July 19, 2011

Int. Cls.: 1 and 42

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

CHROMADEX INC. (CALIFORNIA CORPORATION)
10005 MUIRLANDS SUITE G
IRVINE, CA 92618

FOR: CHEMICAL REAGENTS FOR NON-MEDICAL PURPOSES; CHEMICAL TEST KITS FOR ANALYTICAL MEASUREMENT OF RAW MATERIAL IDENTITY, POTENCY AND FORMULATION CONSISTENCY FOR LABORATORY OR RESEARCH USE; CHEMICALS FOR USE IN INDUSTRY AND SCIENCE; CHEMICALS FOR USE IN THE BIOCHEMICAL AND CHEMICAL INDUSTRY; ASSAYS FOR RESEARCH PURPOSES, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 10-0-1999; IN COMMERCE 10-0-1999.

FOR: CHEMICAL, BIOCHEMICAL, BIOLOGICAL AND BACTERIOLOGICAL RESEARCH AND ANALYSIS; CONSULTING IN THE FIELD OF PRODUCT DEVELOPMENT IN THE FIELD OF CHEMICALS; DEVELOPMENT AND ESTABLISHMENT OF TESTING SPECIFICATIONS AND PROCEDURES IN THE FIELD OF CHEMICALS; DEVELOPMENT AND TEST OF CHEMICAL PRODUCTION METHODS; DEVELOPMENT OF VOLUNTARY STANDARDS FOR CHEMICALS; EXECUTING OF CHEMICAL ANALYSES; INDUSTRIAL RESEARCH IN THE FIELD OF CHEMICALS; PHARMACEUTICAL RESEARCH AND DEVELOPMENT; PRODUCT RESEARCH AND DEVELOPMENT; RESEARCH AND DEVELOPMENT AND CONSULTATION RELATED THERETO IN THE FIELD OF CHEMICALS; TESTING OF RAW MATERIALS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 6-0-2000; IN COMMERCE 6-0-2000.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-939,870, FILED 2-19-2010.

MARY BOAGNI, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT C

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
TXu 1-746-330

Effective date of
registration:

February 14, 2011

Title

Title of Work: pTeroPure Brochure

Completion/Publication

Year of Completion: 2010

Author

Author: ChromaDex, Inc., dba pTeroPure

Author Created: text, compilation

Work made for hire: Yes

Citizen of: United States

Copyright claimant

Copyright Claimant: ChromaDex, Inc., dba pTeroPure

10005 Muirlands Boulevard, Suite G, Irvine, CA, 92618, United States

Limitation of copyright claim

Material excluded from this claim: text, artwork

New material included in claim: text, compilation

Rights and Permissions

Organization Name: ChromaDex, Inc.

Telephone: 949-419-0288

Address: 10005 Muirlands Boulevard

Suite G

Irvine, CA 92618 United States

Certification

Name: Durrell Washington

Date: January 21, 2011

EXHIBIT D

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
TXu 1-745-172

Effective date of
registration:

January 14, 2011

Title

Title of Work: pTeroPure Pterostilbene: The Next Generation Resveratrol
(Complete Presentation)

Completion/Publication

Year of Completion: 2010

Author

■ Author: ChromaDex, Inc., dba pTeroPure

Author Created: text, compilation

Work made for hire: Yes

Citizen of: United States

Copyright claimant

Copyright Claimant: ChromaDex, Inc., dba pTeroPure

10005 Muirlands Boulevard, Suite G, Irvine, CA, 92618, United States

Limitation of copyright claim

Material excluded from this claim: text, artwork

New material included in claim: 2-dimensional artwork, compilation, text

Rights and Permissions

Organization Name: ChromaDex, Inc.

Telephone: 949-419-0288

Address: 10005 Muirlands Boulevard

Suite G

Irvine, CA 92618 United States

Certification

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Cormac J. Carney and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

SACV11- 1273 CJC (MLGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
CENTRAL District of CALIFORNIA

CHROMADDEX, INC., a California corporation

Plaintiff

v.

BIOTIVIA BIOCEUTICALS, LLC, a Delaware

Limited LIABILITY COMPANY

Defendant

SACV11-01273 (JL(MLGx))

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

BIOTIVIA BIOCEUTICALS, LLC, a Delaware corporation

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Erik L. Jackson, Esq.
COZEN O'CONNOR
601 South Figueroa Street, Suite 3700
Los Angeles, CA 90017

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

AUG 24 2011

CLERK OF COURT

JULIE PRADO

Signature of Clerk or Deputy Clerk

Date: _____

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)

CHROMADEx, INC., a California corporation

DEFENDANTS

BIOTIVIA BIOCEUTICALS, LLC, a Delaware corporation

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Erik L. Jackson, State Bar No. 166010
ejackson@cozen.com
COZEN O'CONNOR
601 South Figueroa Street, Suite 3700
Los Angeles, CA 90017
Telephone: 213.892.7900

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

☒ **MONEY DEMANDED IN COMPLAINT:** \$ More than the jurisdictional minimum.

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Title 15 U.S.C. § 1051(Trademark Infringement); Copyright Act, 17 U.S.C. § 101 (Copyright Infringement)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input checked="" type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923) (405(g))
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			FEDERAL TAX SUITS
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				

FOR OFFICE USE ONLY: Case Number: SACV11-01273

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
New York, New York	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): ERIK L. JACKSON Date August 24, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))